

CHAPTER 14 TELECOMMUTING

Section 1. Definition

- 1.1 “Telecommuting” is a work arrangement that allows employees to work for all or part of the regular work week at a location other than the customary work site. OMB considers telecommuting to be a viable option for employees in eligible positions who desire workplace flexibility to aid in the recruitment and retention of skilled workers.

Section 2. Determining Feasibility of Telecommuting Arrangement for Positions/Employees

- 2.1 Before advertising a vacant position, the division director shall determine the feasibility of telecommuting based on the following job characteristics:
- Results-oriented
 - Quantifiable, measurable, reasonably tracked
 - Easily portable
 - Limited requirement for face-to-face internal/external interaction and communication
 - Minimal supervision required
 - Information-based

In addition, the division director or designee shall assess the supervisor and employee suitability for a telecommuting arrangement. HRMS has developed the telecommuting feasibility worksheet to assist managers in assessing the feasibility of a telecommuting arrangement for positions/employees. Refer to page 14-11 of this chapter.

Section 3. Agreement

- 3.1 An OMB division director and employee may enter into an agreement that provides for an employee to telecommute. Arrangements to telecommute must focus first and foremost on the business needs of OMB. Participation in a telecommuting arrangement is discretionary on the part of the division director and voluntary on the part of the employee, unless specifically stated as a condition of employment.
- 3.2 Telecommuting does not change the terms and conditions of employment with OMB. Telecommuting is not an employee right or entitlement.
- 3.3 Before entering into a telecommuting agreement with a current employee, the division director, the employee’s supervisor, and the employee shall evaluate the suitability of such an arrangement with regard to the following:
- Employee Suitability – the employee and manager will assess the needs and work habits of the employee compared to traits customarily recognized as appropriate for successful telecommuters. Telecommuting is available for regular and temporary full-time and part-time employees who:

- possess a demonstrated skill level in the work to be performed or have been employed by OMB for a period of time to achieve a competency level,
- have demonstrated the ability to work independently and manage their own time and workload, and
- have exhibited above average performance in accordance with the performance appraisal process.
- Job Responsibilities – the employee, employee’s supervisor, and division director should discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.
- Equipment needs, work space design considerations, and scheduling issues.
- Tax and other legal implications for the business use of the employee’s home based on IRS and state and local government restrictions; responsibility for fulfilling all obligations in this area rests solely with the employee.

Once the employee, employee’s supervisor, and division director agree, the division director shall prepare an agreement, have it reviewed by legal counsel, and obtain signatures of all parties.

3.4 Requirements of a Telecommuting Agreement

A telecommuting agreement must address and comply with the following:

Work Schedules - The number of telecommuting days each week, the work schedule the employee will customarily observe, and the manner and frequency of communication must be addressed. Work schedules may parallel those of the customary work site or be structured to meet the needs of the employee and division. The employee must agree to be accessible by phone or e-mail within a reasonable time period during the agreed upon work schedule. Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to record all hours worked in a manner designated by the division director. Hours worked in excess of those specified per day and per week will, in accordance with state and federal requirements, require the advanced approval of the supervisor or division director. Failure to comply with this requirement may result in an immediate termination of the telecommuting agreement or disciplinary action up to and including termination of employment. Each monthly timesheet must reflect hours worked and/or leave taken as appropriate and in accordance with Fair Labor Standards Act requirements.

Salary - An employee’s compensation, benefits, and work status will not be affected by participation in a telecommuting arrangement when the same work would have been performed at the customary work site. If an employee takes a different position to locate in a rural area or is assigned different work, the classification of the employee’s position and the employee’s salary may be different from when that employee worked at the customary work site.

Travel - Travel to the customary work site is the responsibility of the employee. Business travel in the course of the workday is reimbursable at travel and per diem rates set forth in OMB fiscal policy. The employee must use a state fleet vehicle if available unless directed otherwise by the division director. An employee with an out-of-state residence will use the North Dakota border when calculating mileage associated with work and identifying a start time for travel. Travel from a personal residence to the North Dakota border is personal time.

Long Distance Phone Calls – Long distance phone calls placed on behalf of the division may be placed through a phone card, access to an “800” toll free line, or reimbursed.

Equipment & Supplies - The division director shall determine, with information supplied by the employee and the supervisor, the appropriate equipment needs for each telecommuting arrangement on a case-by-case basis. Consideration shall be given to the types of office furniture, equipment, supplies, and technical support that the division will provide. Equipment and software must meet organizational standards.

Equipment provided by a division is to be used by the employee for business purposes only. Use by family members or others is prohibited. Equipment supplied by the division will be maintained by the division. The division accepts no responsibility for damages or repairs to employee-owned equipment. The employee must sign an inventory of all state property and agrees to take appropriate action to protect the items from damage or theft. Upon termination of the telecommuting agreement or employment, all division property will be returned to the division, unless other arrangements have been made.

OMB policies relating to computer hardware and software usage applies in the telecommuting arrangement unless otherwise specifically authorized by the division director.

The division should supply materials necessary to complete assigned work at the work site through the employee’s visits to the customary work site. Out-of-pocket expenses for supplies normally available through the division should not be reimbursed.

Inclement Weather - If the customary work site is closed due to an emergency or inclement weather, the division director or designated staff person will contact the employee. The employee may continue to work at the telecommute work site. If there is inclement weather or an emergency, such as a power outage, at the work site, the employee shall notify the supervisor or division director as soon as possible.

Workers Compensation - The employee must immediately report any accident or injury to the supervisor or division director.

Workers compensation coverage will be provided for the employee while in the telecommuting arrangement when injuries are sustained in conjunction with the employee’s regular work duties. However, the division assumes no liability for injuries occurring to the employee at the work site when the injuries are not sustained in conjunction with the employee’s regular duties. The employee is liable for any injuries sustained by visitors to his or her work site.

3.5 Trial Period

A telecommuting arrangement/agreement may be entered into for a trial period. If a trial period is agreed upon, evaluation of employee performance during the trial period must include regular interaction by phone and/or e-mail between the employee and the supervisor and weekly face-to-

face meetings to discuss work progress and problems. At the conclusion of the trial period, the employee, supervisor, and division director shall complete an evaluation of the arrangement and make recommendations for continuance or modifications. Evaluation of employee performance beyond the trial period will be consistent with that received by employees working at the customary work location in both content and frequency, but will focus on work output and completion of objectives.

3.6 Termination of the Telecommuting Arrangement/Agreement

Any telecommuting arrangement may be implemented on a trial basis for a period of time and may be discontinued at any time at the request of either the employee or the division director. A division director may suspend or terminate a telecommuting arrangement/agreement due to operational needs of the division or due to an employee's substandard work performance or work behavior. Management retains the right to refuse or terminate a telecommuting arrangement/agreement at any time followed by written notice to the employee.

Section 4. Division Director Responsibilities Regarding Telecommuting

4.1 The division director shall:

- Approve or disapprove the employee's participation in a telecommuting arrangement.
- Approve or disapprove work site arrangements.
- Assess the impact of the telecommuting arrangement on the productivity of the division, the assigned work, and on any other affected employee; ensure that customer service will not be negatively impacted.
- Maintain regular contact with the employee or ensure the employee's supervisor maintains regular contact with the employee.
- Address work-related issues.
- Evaluate and monitor cost/benefit effectiveness of the telecommuting arrangement.
- Assess the portability of the employee's workload away from the customary work site.
- Develop, amend, and implement performance standards and measurements for work performed; monitor, evaluate, and manage employee's work performance. If the division director is not the employee's supervisor, the division director shall hold the employee's supervisor accountable for this responsibility.
- Assure equipment is available for the employee to adequately perform assigned work.
- Assure that the Risk Management telecommuting checklist is completed for the proposed work site.

Section 5. Employee Responsibilities Regarding Telecommuting

5.1 The employee shall:

- Abide by all work-related policies and regulations, work behavior, and expectations as required of any regular employee of the organization.
- Maintain proper management, retention, and confidentiality of information and records. Disclose information and records only to those authorized to have knowledge or access to information.
- Assure the work site is equipped and maintained in a manner to complete work as assigned.
- Observe agreed-upon hours of work in accordance with policy.

- Assist in the identification of training needs and participate in and/or provide appropriate training.
- Maintain access to appropriate computer equipment.
- Maintain safe conditions in the work area and, if working at home, have adequate homeowners, renters, or commercial general liability insurance as required by State Risk Management.
- Protect state-owned equipment; use state-owned equipment for official purposes and in accordance with OMB policy.
- Be responsible for lost, stolen, or damaged equipment owned by the State.
- Spend previously agreed-upon time at the customary work site and attend required meetings.
- Provide input during the development and implementation of the telecommuting agreement.

Section 6. Telecommuting as an Accommodation

6.1 When requested by an employee, telecommuting may be considered as a reasonable accommodation under the Americans with Disabilities Act. “Reasonable accommodation” is any change in the work environment or in the way things are customarily done that enables an individual with a disability to apply for a job, perform a job, or gain equal access to the benefits and privileges of a job as long as the accommodation does not cause undue hardship to the agency. The division director shall initiate an interactive process with the employee to determine the type of accommodation needed. To determine if any or all of a job can be performed at home, the division director must ensure that essential functions of the position have been identified and consideration given to the feasibility of telecommuting on a full-time, part-time, or intermittent basis. The division director may waive certain telecommuting eligibility requirements, modify the telecommuting policy, or waive or modify other workplace policies to allow an employee with a disability to work from home as a means of reasonable accommodation. The division director will not allow telecommuting as an accommodation if it prevents the employee from performing the essential functions of the job or causes undue hardship to the agency.

The division director has the right to select the most effective accommodation even if it is not the one preferred by the employee. For additional information, see Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act at <http://www.eeoc.gov/policy/guidance.html> or refer to OMB’s reasonable accommodation process outlined in Chapter 3 of this manual.

TELECOMMUTING AGREEMENT

This Agreement between [employee name] and the [division name] of the Office of Management and Budget is to formalize a process whereby [employee name] will be conducting state business in [specify his/her home or telecommuting office] for a month period. This arrangement will begin on [date] and at any time can be terminated at the will of the employee, [employee name] or the [division name] with written notification.

Both parties to this Agreement voluntarily agree to the following terms and conditions of telecommuting:

- This Agreement is for the period [specify dates or time periods] , which may be extended, and is of mutual benefit to the [division name] , hereinafter referred to as Division, and to [employee name] , hereinafter referred to as Employee.
- *[If the work site is a personal residence and if clients or vendors will be coming to the residence on State business]* Prior to beginning work under this Agreement, the Employee must submit proof of homeowner's, renter's, or commercial general liability coverage to the Division indicating the limits of coverage at the home work site. In addition, the Division will inspect the premises according to Risk Management guidelines.
- The Employee will work away from the customary work site at [specify his/her home or telecommuting office] . The Employee's work schedule will be set and mutually agreed upon between the Employee and the Employee's immediate supervisor on a [specify weekly or other] basis. The employee will complete assigned work as agreed upon. Time and attendance will be recorded according to the Fair Labor Standards Act and in accordance with OMB policy.
- Compensation, benefits, and work status will not change due to this Agreement when the employee is performing the same work as when at the customary work site.
- The Employee will be allowed to use [specified equipment] which will be provided by the Division. Employee agrees to protect any State-owned equipment and to use the equipment only for official purposes and in accordance with Office of Management & Budget policy. Use by family members and others is prohibited. The Division agrees to install, service, and maintain any State-owned equipment issued to the telecommuting employee. Any State-owned equipment will be returned to the Division at termination of the Telecommuting Agreement.
- Employees must obtain supervisory approval before taking leave in accordance with established procedures. The employee agrees to follow established procedures for requesting and obtaining approval of leave.

- The Division will supply materials necessary to complete assigned work at the work site through the Employee's in-office visits. Out-of-pocket expenses for supplies normally available through the Division will not be reimbursed.
- Necessary telephone lines will be provided by the employee. Long distance business calls and internet connection fees will be _____ [specify reimburse, made on credit cards, etc.].
- All Division data must be handled in a secure and confidential manner.
- The Employee must maintain safe conditions in the work area and practice the same safety habits in the designated work area as the Employee would in the Employee's office on the Division's premises.
- Workers compensation coverage will be provided for the Employee while in the telecommuting arrangement when injuries are sustained in conjunction with the employee's regular work duties. The Division assumes no liability for injuries occurring to the Employee at the work site outside of the agreed-upon work schedule or when injuries sustained are not in conjunction with the performance of the regular work duties.
- The employee will continue to work in pay status while working at a home office. An employee working overtime, ordered and approved in advance, will be compensated in accordance with the Fair Labor Standards Act and Office of Management and Budget policy. The employee agrees that failing to obtain proper approval for overtime work may result in removal from the telecommuting program or other appropriate action.
- The Division will not be responsible for operating costs, home maintenance, or any other incidental costs (e.g. utilities) associated with the use of the employee's residence. The employee does not give up any reimbursement for authorized business for the Division because the employee works from home or another location.
- The Division will not be liable for damages to the employee's property resulting from participation in the telecommuting program. In signing this document, the employee agrees to hold the Division harmless against any and all claims, excluding worker's compensation claims.
- The evaluation of the employee's job performance will be based on established standards. Performance must remain satisfactory for the employee to continue as a telecommuter. Employees will not be allowed to telecommute while on a performance improvement plan.
- The employee will apply safeguards that are approved by the Division to protect records from unauthorized disclosure or damage. All records, papers, and correspondence must be safeguarded for their return to the office.

- The employee agrees to work at the office or telecommuting location and not from another unapproved site. Failure to comply with this provision may result in termination of the agreement and/or other appropriate disciplinary action.

We agree to abide by the terms and conditions of this agreement:

Employee Signature

Date

Supervisor's Signature

Date

Division Director's Signature

Date

RISK MANAGEMENT TELECOMMUTING CHECKLIST

The workspace selected for a telecommuting work arrangement must comply with the following guidelines to ensure that the space is adequate, safe, and hazard free.

WORKSPACE ENVIRONMENT

- ☐ Workspace is away from noise and distractions and devoted to work needs.
- ☐ Natural or mechanical ventilation is adequate; temperature control has been adequately selected.
- ☐ Area accommodates all equipment and related materials.
- ☐ Aisles, doorways, and corners are free from obstructions to permit movement.
- ☐ Lighting is adequate to avoid eyestrain caused by glare, reflection, dimness, brightness, etc. Task lights are used for source documents.

WORKSPACE ELECTRICAL AND FIRE SAFETY

- ☐ There are enough electrical outlets to support the required equipment and avoid outlet overload. If necessary, consult an electrician to verify outlet electrical circuit capacity.
- ☐ Equipment is fitted with grounding adapters, surge protectors, and overload fuses – all Underwriters Laboratory approved.
- ☐ Equipment is placed close to electrical cords so there are no tripping hazards. All phone lines, electrical cords, and extension wires are secured underneath desk or along baseboards.
- ☐ All electrical equipment is free of recognized hazards that would cause physical harm (e.g. frayed wires, bare conductors, loose wires, flexible wires through walls, exposed wires fixed to the ceiling).
- ☐ Sufficient air space should be around electrical components.
- ☐ There is a working smoke detector on each floor of the home.
- ☐ A home multipurpose fire extinguisher, which you know how to use, is readily available.
- ☐ An evacuation plan is in place in the event of a fire.

WORKSPACE EQUIPMENT AND FURNITURE

Desk and Keyboard

- ☐ Component desk and keyboard height is ergonomically adjusted to the height of the user so that when the user is seated their elbows form a 90 degree angle.
- ☐ Space under desk should be sufficient for lateral movement.
- ☐ Desk should be sturdy enough to support the weight of equipment and materials.
- ☐ When using the keyboard, user's wrists are straight and wrist pad is used, if needed.

Chair

- ☐ Chair is adjustable in height and angle of backrest to provide support to the inward curve of user's back.
- ☐ Chair is adjustable to ensure that user's arms are at a 90-degree angle to the keyboard and elbows are at the same height as keyboard.
- ☐ Chair is adjustable so knees are at a 90-degree angle and feet are flat on floor or footrest.

Computer Screen

- ☐ Distance of viewing screen is 18” to 26” from the eyes.
- ☐ Height of viewing screen is adjusted to user’s vision correction. For example, the eye level for users with no vision correction or single vision correction should be approximately one-third of the way down from the top of the viewing screen. For users with bifocals, trifocals, or progressive addition lenses, the top of the viewing screen should be approximately five inches below their line of sight when looking straight ahead.
- ☐ There is no glare or reflection on the screen from bright lighting or windows.
- ☐ Screen contrast and brightness are adjusted for best reading of images and typed characters on the screen.

INSURANCE

- ☐ If the work site is a personal residence, the employee must submit proof of homeowners’, renters’, or commercial general liability coverage to the agency indicating the limits of coverage at the home worksite.

TELECOMMUTING FEASIBILITY WORKSHEET

PURPOSE:

The purpose of this worksheet is to assist managers in assessing the feasibility of a telecommuting arrangement for positions/employees.

SECTION 1: ELIGIBILITY CRITERIA

Position Data:

Position #: _____ Department: _____

Job Classification: _____ Supervisor's Name & Position: _____

Does position provide direct care to or supervision of clients, patients, students, inmates, etc. on a frequent basis, making telecommuting unworkable?

☐ Yes
☐ No

If yes, further analysis is NOT required. Complete Section 5: Recommendation.

SECTION 2: WORK PRODUCT ASSESSMENT

Describe the specific work assignments that are the responsibility of this position.

Duty (PIQ may be used as a basis.)	Work nature (individual v. collaborative)	Requires face-to- face contact with customers	Requires face-to- face contact with co-workers	How will work be measured? (Can tasks be clearly defined?)	Does duty require access to and/or confidentiality of information?	Does this duty lend itself to telecommuting Yes or No?

Required Meetings:

Nature of meeting	Day & Time	Regularly scheduled meetings: what, who, why	Is it practical to hold the meeting via another method?
i.e. staff meeting	Tuesday's at 2:30 pm	Weekly	i.e. phone conference

SECTION 3: MANAGEMENT'S ASSESSMENT OF SUPERVISOR FOR TELECOMMUTING ARRANGEMENT

Supervisory Characteristics	Yes/No	Comments
Possesses strong communication skills?		
Delegates work easily?		
Trusts & empowers employees?		
Sets clear work objectives?		
Exhibits good planning & time management?		
Supports employee growth & development?		
Uses performance standards and measurements?		
Focuses on worker outputs and results (not time spent)?		
Positive attitude toward telecommuting?		

SECTION 4: MANAGEMENT'S ASSESSMENT OF EMPLOYEE FOR TELECOMMUTING ARRANGEMENT

Employee Characteristics	Yes/No	Comments
Self-motivated & self-disciplined?		
Exhibits strong organizational & time management?		
Able to work independently, with minimal supervision, contact with co-workers & feedback?		
Communicates well with supervisor & co-workers?		
Adaptable to changing routines & environments?		
Knows job well & has track record of good performance?		
Positive attitude toward telecommuting?		

Based on responses to the above items, determine if telecommuting for this position is feasible. If so, determine what is a reasonable arrangement for telecommuting:

Length of commitment – temporary or long term?

Number days per week?

Days of week that would be least disruptive to work unit?

Variability of schedule?

SECTION 5: RECOMMENDATION

- ☐ Based on the response in Section 1, this position is NOT suitable for telecommuting.
- ☐ Based on the analysis above, this position is suitable for telecommuting.
- ☐ Based on the analysis above, this position is NOT suitable for telecommuting.

Agency Head Signature

Date